

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

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Docket No. 225,181

ORDER

Respondent and its insurance carrier appeal from the October 28, 1997, order by Administrative Law Judge Kenneth S. Johnson (ALJ).

ISSUES

In the appealed order, the ALJ ordered respondent to provide claimant medical treatment with Dr. Kenneth A. Jansson as the authorized treating physician. The parties stipulated that claimant initially injured her right knee in an accident arising out of and in the course of employment for respondent. Respondent contends, however, the ALJ exceeded his jurisdiction by entering the current order because claimant suffered a subsequent intervening injury and the current need for treatment is not from an accidental injury arising out of and in the course of employment for respondent.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Appeals Board finds the order by the ALJ should be affirmed.

Claimant injured her right knee on January 16, 1996, while working for respondent and then left employment with respondent on January 25, 1996. On February 15, 1996, claimant began working as a receptionist for J.C. Penney Styling Salon. Claimant received treatment for her knee injury through Kenneth A. Jansson, M.D. Dr. Jansson recommended surgery as early as June of 1996 but claimant delayed the surgery initially until December of 1996 and then until January of 1997.

Respondent agrees to pay the medical bills through February 10, 1997, but argues that medical treatment after February 10, 1997, has been necessitated by an intervening injury occurring in the course of employment with J.C. Penney. After hearing claimant's testimony, the ALJ awarded additional treatment to be provided at respondent's expense with Dr. Jansson as the authorized treating physician. The Board agrees.

Claimant has described an ongoing problem with her right knee which has gradually progressed since her surgery in January of 1997. Although claimant acknowledged her knee did not get worse while she was off for dental surgery, claimant also testified that the knee would be worse at the end of the day even when not working. Claimant's description can reasonably be considered a description of worsening as a natural and direct result of her original compensable injury.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the order entered by Administrative Law Judge Kenneth S. Johnson on October 28, 1997, should be, and the same is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of December 1997.

BOARD MEMBER

c: Robert A. Levy, Garden City, KS
Jeff S. Bloskey, Kansas City, KS
Kenneth S. Johnson, Administrative Law Judge
Philip S. Harness, Director